

ADMINISTRATIVE - INTERNAL USE ONLY

OGC-74-1878

16 October 1974

OGC REVIEW
COMPLETED

MEMORANDUM FOR: Director of Security

SUBJECT : Use of Telephone Recording Devices

1. Your memorandum of 24 September 1974 requests this Office to confirm the legality of the use of recording devices without tone warning devices ("beepers") on ☐ Agency telephones. These telephones are in the Office of Security and the recorders are used for the primary purpose of recording serious threats to installations and personnel. The telephone company installed beepers on all of these lines and they were subsequently removed by the Agency. STATINTL

2. An OGC intra-Office memorandum (OGC 74-0472) dated 26 March 1974, a copy of which was provided to you, discusses the law, regulation, and telephone company contract governing the use of recording devices and beepers on telephones. That memorandum notes that the statutory requirement for the use of the beeper (47 U.S.C.A. 502) runs only to telephone companies. Similarly, a Federal Communications Commission (FCC) regulation (47 C.F.R. 64.501) prohibits a telephone company from using any recording devices for monitoring telephone conversations unless an automatic tone warning device -- the so-called beeper -- is installed so as to give the parties to the conversation notice that it is being recorded. The only restriction on the telephone subscriber is a telephone company tariff schedule filed with the FCC which also requires the use of a beeper with recording devices.

3. We have discussed this practice with Mr. Hilbert Schlossberg of the General Counsel's Office at FCC, who advised us that police departments, fire departments, and the like, also record conversations involving threats, safety and related topics.

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These organizations usually have an agreement with the local telephone company permitting recordation of the conversations without the beep tone or any other notice. We can attempt to reach a similar agreement with C&P, but whether we decide to do so is a matter of policy and failure to do so will not place us in violation of any law. STATINTL



Deputy General Counsel

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STATINTL

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